



# House of Representatives

General Assembly

**File No. 757**

February Session, 2008

Substitute House Bill No. 5873

*House of Representatives, May 1, 2008*

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE FACE OF CONNECTICUT ACCOUNT STEERING COMMITTEE AND THE PRESERVATION OF FARMLAND.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective from passage*) There is established an  
2      account to be known as the "Face of Connecticut account" which shall  
3      be a separate, nonlapsing account within the General Fund. The  
4      account shall contain any moneys required by law to be deposited in  
5      the account and contributions from any source, public or private. Any  
6      moneys in the account shall be expended by the Face of Connecticut  
7      Account Steering Committee established pursuant to section 2 of this  
8      act according to the following percentages: (1) Sixteen and one-half per  
9      cent for the state program for the preservation of agricultural land,  
10     established under chapter 422a of the general statutes, and the joint  
11     state and municipal purchase of development rights of agricultural  
12     land program, established under section 22-26cc of the general  
13     statutes, (2) eleven and one-half per cent for the open space and  
14     watershed land acquisition program, established under section 7-131d

15 of the general statutes, (3) eleven per cent for the recreation and  
16 natural heritage trust program, established under chapter 453 of the  
17 general statutes, (4) four per cent for the preservation activities of the  
18 Connecticut Trust for Historic Preservation, established pursuant to  
19 special act 75-93, (5) twelve per cent for historic preservation activities,  
20 as provided in sections 10-409 to 10-415, inclusive, of the general  
21 statutes, (6) ten per cent to the Departments of Environmental  
22 Protection and Agriculture and the Connecticut Commission on  
23 Culture and Tourism in accordance with the policies, procedures and  
24 criteria established by the Face of Connecticut Account Steering  
25 Committee, and (7) the remaining thirty-five per cent for the municipal  
26 and regional grant programs created pursuant to section 3 of this act.  
27 The Commissioner of Administrative Services shall administer said  
28 account.

29       Sec. 2. (NEW) (*Effective from passage*) (a) There is established the Face  
30 of Connecticut Account Steering Committee, which shall be within the  
31 Department of Administrative Services for administrative purposes  
32 only. Said committee shall distribute any funds deposited in the Face  
33 of Connecticut account created under section 1 of this act. The  
34 committee shall consist of the Commissioners of Environmental  
35 Protection and Agriculture, the executive director of the Connecticut  
36 Commission on Culture and Tourism, the Secretary of the Office of  
37 Policy and Management, and eight members as follows: (1) A  
38 representative of a state-wide nonprofit organization involved in the  
39 preservation of open space, appointed by the speaker of the House of  
40 Representatives; (2) a representative of a local or regional nonprofit  
41 organization involved in the preservation of open space, appointed by  
42 the president pro tempore of the Senate; (3) a representative of a water  
43 company actively involved in land preservation, appointed by the  
44 majority leader of the House of Representatives; (4) a representative of  
45 a nonprofit organization involved in farmland preservation, appointed  
46 by the majority leader of the Senate; (5) a representative of the  
47 agricultural industry, appointed by the minority leader of the House of  
48 Representatives; (6) a representative of a state-wide nonprofit involved  
49 in historic preservation, appointed by the minority leader of the

50 Senate; (7) a representative of a local or regional organization involved  
51 in historic preservation, appointed by the Governor; and (8) a  
52 representative of an organization involved with community  
53 redevelopment, appointed by the Governor.

54 (b) All initial appointments to the committee shall be made not later  
55 than November 1, 2008. The term of each appointed member of the  
56 steering committee shall be coterminous with the term of the  
57 appointing authority or until a successor is chosen, whichever is later.  
58 The Commissioner of Environmental Protection shall serve as the  
59 chairperson of the committee for the two years following the  
60 appointment of the committee, followed first by the Commissioner of  
61 Agriculture for two years and subsequently by the executive director  
62 of the Connecticut Commission on Culture and Tourism for two years.  
63 Such rotation shall repeat every two years thereafter in the order  
64 specified in this subsection, except that if there is a vacancy in one of  
65 said positions, one of the other commissioners or the executive director  
66 may serve as chairperson until the vacancy is filled.

67 (c) The committee shall meet quarterly.

68 Sec. 3. (NEW) (*Effective from passage*) (a) The Commissioner of  
69 Environmental Protection, in consultation with the Face of Connecticut  
70 Account Steering Committee established pursuant to section 2 of this  
71 act, shall establish grant programs for municipal and regional open  
72 space, farmland conservation and stewardship, historic preservation,  
73 and associated planning efforts that the committee determines are not  
74 adequately addressed by existing programs. Such grants shall be used  
75 for purposes that include, but are not limited to, the renovation and  
76 enhancement of urban parks; projects that include some combination  
77 of land conservation, affordable housing or historic preservation;  
78 preservation of distinctive landscapes; loans to aid immediately  
79 threatened high priority local projects or for the programs established  
80 in sections 5 and 6 of this act. The committee may designate an agency  
81 or agencies to administer such grant programs.

82 (b) To apply for a grant, an applicant shall submit a grant

83 application on forms prescribed by the committee or by the agency  
84 designated to administer the grant program in accordance with  
85 subsection (a) of this section. The Commissioner of Environmental  
86 Protection or the designated agency may reject any grant application  
87 that the commissioner or said agency determines to be incomplete. If  
88 the commissioner or said agency rejects an application, the  
89 commissioner or said agency shall promptly notify the applicant of the  
90 reasons for the rejection and, not later than fifteen days after the date  
91 of such notice, such applicant may resubmit the application in the  
92 same manner as the original application.

93 (c) The Commissioner of Environmental Protection or the agency  
94 designated in accordance with subsection (a) of this section shall  
95 develop guidelines specifying criteria and the procedures for the  
96 award of a grant in accordance with this section.

97 Sec. 4. Section 22-26gg of the general statutes is repealed and the  
98 following is substituted in lieu thereof (*Effective October 1, 2008*):

99 The commissioner shall adopt, in accordance with chapter 54, such  
100 regulations as [he] the commissioner deems necessary to carry out the  
101 purposes of this chapter. Such regulations shall provide that individual  
102 landowners applying for such program shall be eligible to receive not  
103 more than twenty thousand dollars per acre for development rights,  
104 and a schedule of the state's contribution for projects initiated by  
105 municipalities that shall be as follows: For a parcel located within a  
106 three-mile radius of active agricultural land consisting of (1) one  
107 thousand acres or more, a maximum of one million two hundred  
108 thousand dollars; (2) eight hundred to nine hundred ninety-nine acres,  
109 a maximum of one million dollars; (3) six hundred to seven hundred  
110 ninety-nine acres, a maximum of eight hundred thousand dollars; (4)  
111 four hundred to five hundred ninety-nine acres a maximum of six  
112 hundred thousand dollars; (5) two hundred to three hundred ninety-  
113 nine acres a maximum of four hundred thousand dollars; and (6) one  
114 hundred ninety-nine acres or less, a maximum of two hundred  
115 thousand dollars.

116 Sec. 5. (NEW) (*Effective from passage*) (a) The Commissioner of  
117 Agriculture shall establish a program for the preservation of small  
118 farms consisting of thirty acres or less. The commissioner may  
119 purchase up to one hundred per cent of the value of development  
120 rights of an eligible owner, with a maximum of twenty thousand  
121 dollars an acre paid by the state toward the purchase of such  
122 development rights, subject to the appraisal and review required by  
123 regulations adopted pursuant to this section. For the purposes of this  
124 section, "development rights" and "owner" shall have the same  
125 meanings as in section 22-26bb of the general statutes.

126 (b) The Commissioner of Agriculture, in consultation with the  
127 Farmland Preservation Advisory Board established under section 22-  
128 26ll of the 2008 supplement to the general statutes, shall establish  
129 criteria for the program and such criteria shall give preference to farms  
130 that produce food and fiber.

131 (c) The owner of the agricultural land shall submit notice of an offer  
132 to sell development rights in writing to the commissioner and shall file  
133 such notice in the land records of the town in which the agricultural  
134 land is situated. If ownership of any land for which development  
135 rights have been offered is transferred, the offer shall be effective until  
136 the subsequent owner revokes the offer in writing. Upon receiving an  
137 offer to sell development rights, the commissioner shall evaluate the  
138 land in accordance with the criteria specified in subsection (b) of this  
139 section. For purposes of such evaluation, (1) ownership of land by a  
140 nonprofit organization authorized to hold land for conservation and  
141 preservation purposes, which prior to such ownership qualified for the  
142 program, shall not be deemed to diminish the probability that the land  
143 will be sold for nonagricultural purposes; and (2) the use or presence  
144 of pollutants or chemicals in the soil shall not be deemed to diminish  
145 the agricultural value of the land or to prohibit the commissioner from  
146 acquiring the development rights to such land. After a preliminary  
147 evaluation of such factors, the Commissioner of Agriculture shall  
148 obtain and review one or more fee appraisals of the land in order to  
149 determine the value of the development rights of such land. The

150 commissioner shall notify the Department of Transportation, the  
151 Department of Economic and Community Development, the  
152 Department of Environmental Protection and the Office of Policy and  
153 Management that such land is being appraised. Any appraisal of the  
154 value of such land obtained by the owner and performed in a manner  
155 approved by the commissioner shall be considered by the  
156 commissioner in making such determination. The value of  
157 development rights for all purposes of this section shall be the  
158 difference between the value of the land for its highest and best use  
159 and its value for agricultural purposes as determined by the  
160 commissioner. In determining the value of the land for its highest and  
161 best use, consideration shall be given but not limited to sales of  
162 comparable lands in the general area, use of which was unrestricted at  
163 the time of sale. The commissioner may purchase development rights  
164 for a lesser amount, provided the commissioner complies with all  
165 factors for acquisition specified in this subsection and in any  
166 implementing regulations.

167 (d) Upon acquiring the development rights of agricultural land, the  
168 commissioner shall file a notice of acquisition in the appropriate land  
169 records and in the office of the Secretary of the State which shall set  
170 forth a description of the agricultural land sufficient to give any  
171 prospective purchaser of such agricultural land or creditor of the  
172 owner thereof notice of such restriction. Upon such filing, the owner of  
173 such agricultural land shall not exercise development rights with  
174 respect to such land, and such development rights shall be considered  
175 and deemed dedicated to the state in perpetuity, except as otherwise  
176 provided.

177 (e) (1) If restricted land is to be sold, the owner shall notify, in  
178 writing, the commissioner of such impending sale not less than ninety  
179 days before transfer of title to the land, and no sale may be made until  
180 the commissioner has (A) approved such transfer, based upon an  
181 assessment of whether the potential buyer intends to use the land for  
182 farming purposes, and (B) approved the subsequent buyer. The owner  
183 shall submit the potential buyer's plan for use of the land and the

184 purchase and sale agreement to the commissioner.

185 (2) Not later than forty-five days after such notice has been so given,  
186 the commissioner may give written notice to the owner of the state's  
187 intent to purchase such land. The commissioner shall exercise the  
188 state's right to purchase the restricted land or to assign the state's right  
189 to purchase the land upon a determination that the proposed purchase  
190 price or the buyer's proposed plan for use of the land will not ensure  
191 the future affordability of the land for farming. If the commissioner  
192 fails to purchase such land not later than sixty days after notice has  
193 been given by the commissioner of the state's intent to purchase the  
194 land, as provided in this section, the commissioner shall have waived  
195 the right to purchase the land and the transfer shall be deemed  
196 approved. The provisions of this subsection shall not apply to a  
197 transfer of land between family members or qualified farmers, as  
198 defined by the commissioner in regulations adopted pursuant to  
199 subsection (g) of this section.

200 (f) The commissioner shall have no power to release such land from  
201 its agricultural restriction, except as set forth in this subsection. The  
202 commissioner, in consultation with the Commissioner of  
203 Environmental Protection and such advisory groups as the  
204 Commissioner of Agriculture may appoint, may approve (1) a petition  
205 by the owner of the restricted agricultural land to remove such  
206 restriction, provided such petition is approved by resolution of the  
207 legislative body of the town; or (2) a petition by the legislative body of  
208 the town in which such land is situated to remove such restriction,  
209 provided such petition is approved in writing by said owner. Upon  
210 approval of such a petition by the commissioner, the legislative body  
211 of the town shall submit to the qualified voters of such town the  
212 question of removing the agricultural restriction from such land, or a  
213 part thereof, at a referendum held at a regular election or a special  
214 election warned and called for that purpose. In the event a majority of  
215 those voting at such referendum are in favor of such removal, the  
216 restriction shall be removed from the agricultural land upon filing of  
217 the certified results of such referendum in the land records and the

218 office of the Secretary of the State, and the commissioner shall convey  
219 the development rights to such owner, provided such owner shall pay  
220 the commissioner an amount equal to the value of such rights. Such  
221 petition shall set forth the facts and circumstances upon which the  
222 commissioner shall consider approval, and said commissioner shall  
223 deny such approval unless the commissioner determines that the  
224 public interest is such that there is an overriding necessity to relinquish  
225 control of the development rights. The commissioner shall hold at least  
226 one public hearing prior to the initiation of any proceedings  
227 hereunder. The expenses, if any, of the hearing and the referendum  
228 shall be borne by the petitioner. In the event that the state sells any  
229 development rights under the procedure provided in this subsection, it  
230 shall receive the value of such rights.

231 (g) The commissioner shall adopt regulations in accordance with the  
232 provisions of chapter 54 of the general statutes to implement the  
233 provisions of this section.

234 Sec. 6. (NEW) (*Effective from passage*) (a) The Commissioner of  
235 Agriculture shall establish a grant program for the preservation of  
236 locally significant farmland. Such program shall provide matching  
237 grants for the purchase of the development rights of qualifying  
238 farmland. The Commissioner of Agriculture, in consultation with the  
239 Farmland Preservation Advisory Board established under section 22-  
240 26ll of the 2008 supplement to the general statutes shall establish  
241 criteria for such grant program. In establishing such criteria, said  
242 commissioner and said board shall consider (1) the economic  
243 contribution of the parcel to local agricultural production; (2) the  
244 capacity of the parcel for producing food, forest, forage or feed crops;  
245 (3) environmental benefits; (4) cultural or historical significance; (5)  
246 available matching funds; and (6) the probability that the land will be  
247 sold for nonagricultural purposes. For the purposes of this section  
248 "eligible applicant" means a municipality or a land trust in partnership  
249 with one or more municipalities, "qualifying farmland" means a parcel  
250 of land consisting of not less than ten acres, twenty per cent or more of  
251 which is cropland or agricultural soils that are classified as prime,



252 important or locally important by the United States Department of  
253 Agriculture, and "development rights" shall have the same meaning as  
254 in section 22-26bb of the general statutes.

255 (b) Eligible applicants may receive up to a sixty-five per cent  
256 matching grant for the purchase of the development rights of  
257 qualifying farmland. Such grants shall be issued according to the  
258 following limits: For qualifying farmland consisting of agricultural soil  
259 or cropland in a quantity of (1) twenty per cent to twenty-nine per  
260 cent, inclusive, a grant not to exceed two hundred thousand dollars; (2)  
261 thirty per cent to thirty-nine per cent, inclusive, a grant not to exceed  
262 three hundred thousand dollars; (3) forty to forty-nine per cent,  
263 inclusive, a grant not to exceed four hundred thousand dollars; and (4)  
264 fifty per cent or more, a grant not to exceed five hundred thousand  
265 dollars. The Commissioner of Agriculture may provide a no interest  
266 loan to a municipality in accordance with the provisions of section 22-  
267 26mm of the 2008 supplement to the general statutes in addition to a  
268 grant pursuant to this section to acquire the development rights of  
269 qualifying farmland.

270 (c) To apply for a grant, an applicant shall submit a grant  
271 application on forms prescribed by the Commissioner of Agriculture.  
272 Such application shall include an appraisal of the property performed  
273 in a manner approved by the commissioner. The commissioner shall  
274 act upon all complete and eligible grant applications as soon as  
275 practicable. The commissioner may reject any grant application that  
276 the commissioner determines to be incomplete. If the commissioner  
277 rejects an application, the commissioner shall promptly notify the  
278 applicant of the reasons for the rejection and, not later than fifteen days  
279 after the date of such notice, such applicant may resubmit the  
280 application in the same manner as the original application.

281 (d) The Commissioner of Agriculture shall make grant award  
282 decisions pursuant to this section at least semiannually. A single  
283 project may receive a grant in more than one grant cycle, subject to the  
284 availability of funds and the limitations set forth in this section. Not

285 more than two per cent of the grant funds may be used for  
 286 administrative expenses, including, but not limited to, (1) the hiring of  
 287 contractors to assist the commissioner in the review and evaluation of  
 288 grant proposals and baseline data collection for conservation  
 289 easements; (2) appraisals or appraisal reviews; and (3) preparation of  
 290 legal or other documents, but excluding the salary of employees.

291 (e) The Commissioner of Agriculture shall adopt regulations in  
 292 accordance with the provisions of chapter 54 of the general statutes to  
 293 implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2008</i>	22-26gg
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section

**FIN**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Agriculture	GF - Cost	195,392	201,123
Commission on Arts, Tourism, Culture, History and Film	GF - Cost	70,000	70,000
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	85,246	200,362
Dept. of Administrative Services	GF - Cost	75,000	75,000

Note: GF=General Fund

#### **Municipal Impact:** None

#### **Explanation**

The bill creates a Face of Connecticut Steering Committee within the Department of Administrative Services (DAS) for administrative purposes only. DAS would need to hire an Associate Accountant, with an annualized salary of approximately \$75,000 (plus fringe benefits), to handle the significant workload associated with this new account and to assist the steering committee in its duties.

The bill specifies that funding contained in the Face of Connecticut account be expended by the Connecticut Commission on Culture and Tourism (CCCT) for historic preservation and other activities as established by the Steering Committee. The increase in program funding could require CCCT to hire an additional National Register Architect or Historian Specialist (annual salary of approximately \$70,000) to review and verify the compliance of grant applications and

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State

documents as well as the rehabilitation of historic buildings. CCCT may also incur additional minimal costs associated with operating expenses as well as marketing.

The bill results in a cost to the Department of Agriculture (DOAg) of \$195,392 in FY 09 and \$201,123 in FY 10 for requirements specified in Sections 5 and 7 of this bill. The department requires additional resources identified in the table below:

<b>Item:</b>	<b>\$ FY 09</b>	<b>\$ FY 10</b>
Property Agent I	48,892	50,359
Property Agent I	48,892	50,359
Property Agent II	55,140	56,794
Secretary I	38,108	39,251
Other Expenses <sup>2</sup>	300	300
Equipment <sup>3</sup>	4,060	4,060
<b>Total</b>	<b>195,392</b>	<b>201,123</b>

The Property Agent staff positions would be responsible for property appraisals, property acquisitions, relocation, leasing, sale or revenue management in addition to participation in field investigations and negotiations, easement rights, preparation of various legal documents, title searches, and would act as a liaison with engineers, municipal agencies and other state agencies involved with these activities. The Secretary position would provide administrative support for these activities.

There could also be an additional cost to DOAg, although indeterminate at this time, since additional office space would be

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Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

<sup>2</sup> Other Expenses includes \$300 in FY 09 and FY 10 to pay the Department of Information Technology (DOIT) for the maintenance and support of additional computers needed for new staff. Equipment costs include two vehicle rentals (at an average rental cost of \$405 per month each), and gas and maintenance costs of \$225 per month for each vehicle.

<sup>3</sup> Equipment costs include two vehicle rentals (at an average rental cost of \$405 per month each), and gas and maintenance costs of \$225 per month for each vehicle. The Equipment cost also includes four new computers at a cost of \$700 each.

needed by the agency to house the four additional employees.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and subject to the number of grants processed by CCCT and DOAg.

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**OLR Bill Analysis****sHB 5873*****AN ACT CONCERNING THE FACE OF CONNECTICUT ACCOUNT  
STEERING COMMITTEE AND THE PRESERVATION OF  
FARMLAND.*****SUMMARY:**

This bill establishes the Face of Connecticut account, a separate, non-lapsing account within the General Fund. The account funds several programs for municipal and regional open space, farmland conservation and stewardship, historic preservation, and other projects.

The bill creates a Face of Connecticut steering committee within the Department of Administrative Services for administrative purposes only. The 12-member committee distributes funds deposited into the Face of Connecticut account.

The bill requires the Department of Environmental Protection (DEP) commissioner, in consultation with the committee, to create grant program for projects. The bill also sets dollar limits on the existing farmland preservation grant program.

The bill also requires the Department of Agriculture (DOAG) commissioner to create two grant programs to purchase farmland development rights. The first program is for the preservation of small farms, including a right of first refusal, and the second for the preservation of locally significant farmland. The bill authorizes the DOAG commissioner to adopt regulations to implement the programs.

**EFFECTIVE DATE:** Upon passage, except for the new limits on the state's contribution in the Farmland Preservation Grant Program, which are effective October 1, 2008.

## FACE OF CONNECTICUT ACCOUNT AND STEERING COMMITTEE

The bill authorizes the account to accept public and private donations from any source.

The bill creates a Face of Connecticut steering committee to distribute the funds in the Face of Connecticut account. The committee consists of the DEP and DOAG commissioners, the executive director of the Connecticut Commission on Culture and Tourism (CCCT), the Office of Policy and Management (OPM) Secretary, and eight other appointed members. Table 1 outlines the appointing authorities and requirements for these eight members:

**Table 1: Appointment of Face of Connecticut Members**

<i>Appointing Authority</i>	<i>Appointed Member Must Represent</i>
House Speaker	a state-wide nonprofit open space preservation organization
Senate President pro tempore	a local or regional nonprofit open space preservation organization
House majority leader	a water company actively involved in land preservation
Senate majority leader	a nonprofit farmland preservation organization
House minority leader	the agricultural industry
Senate minority leader	a state-wide nonprofit historic preservation organization
Governor	a local or regional historic preservation organization
Governor	a community redevelopment organization

The bill requires all committee appointments to be completed by November 1, 2008. The term of each member is coterminous with the term of the appointing authority or until a successor is chosen, whichever is later. The committee must meet quarterly, and the committee chairmanship rotates continuously every two years. The DEP commissioner is first in the rotation, followed by the DOAG

commissioner, and then the CCCT executive director. Should one of these positions be vacant, the two other rotating chairs or the executive director must fill in until the vacant position is filled.

The bill requires that the committee adhere to the following percentages when distributing Face of Connecticut funds:

1. 16.5% for the state agricultural land preservation program, including the joint state and municipal purchase of development rights to agricultural land (see BACKGROUND);
2. 11.5% for the open space and watershed land acquisition program;
3. 11% for the recreation and natural heritage trust program;
4. 4% for the Connecticut Trust for Historic Preservation's preservation activities;
5. 12% for historic preservation activities;
6. 10% to the DEP, DOAG, and CCCT in accordance with policies, procedures, and criteria established by the committee; and
7. 35% for the municipal and regional grant program created by the bill (see below).

#### **MUNICIPAL AND REGIONAL GRANT PROGRAM**

The bill requires the DEP commissioner, in consultation with the committee, to create grant programs for municipal and regional open space, farmland conservation and stewardship, historic preservation, and associated planning efforts not adequately addressed by other programs. The bill does not specify who can apply for these grants.

The commissioner may designate an agency to administer the grant programs. The grant programs receive funding from the Face of Connecticut account, as distributed by the steering committee.

Under the bill, the grants must be used to renovate and enhance



urban parks; for projects that include some land conservation; affordable housing or historic preservation; preservation of distinctive landscape; loans to aid immediately threatened high priority local projects; the small farm preservation program; and the locally significant farmland matching grant program administered by the DOAG commissioner and created in this bill. The committee may also determine other purposes for the grants.

DEP or the agency designated to administer the grant programs must develop criteria and procedures for grant awards and prescribe application forms. DEP or the agency may reject applications when they are incomplete, but they must promptly notify the applicant of and allow the applicant to resubmit within 15 days.

### **FARMLAND PRESERVATION GRANT PROGRAM**

Current law requires the agriculture commissioner to adopt regulations governing program for the acquiring development rights to agricultural land. The bill requires these regulations to include restrictions on the state's contribution to individual landowners. Generally, the bill provides that the state contribution cannot exceed \$20,000 per acre. Table 2 outlines the additional restrictions created by the bill for parcels of land located within a three-mile radius of active agricultural land, and the corresponding state contribution per acre.

**Table 2: Restrictions on State Contributions**

<i>Size of Farm (in acres)</i>	<i>Maximum State Contribution (in \$)</i>	<i>State Contribution per acre (range, in \$)</i>
1,000 +	1.2 million	n.a. - 1,200
800-999	1 million	1,001-1,250
600-799	800,000	1,001-1,333
400-599	600,000	1,002-1,500
200-399	400,000	1,003-2,000
199 or less	200,000	1,005-n.a.

### **SMALL FARMS PRESERVATION GRANT PROGRAM**

The bill requires the DOAG commissioner to establish a small farm preservation program for farms of 30 acres or less and to adopt necessary regulations. Through the program, the commissioner may purchase up to 100% of development rights of eligible owners. The maximum state contribution under the bill is \$20,000 per acre, subject to the regulations adopted by the commissioner.

The commissioner, in consultation with the Farmland Preservation Advisory Board, must establish criteria for the program that gives preference to farms that produce food or fiber. The program is voluntary. Owners of small farms submit a written notice of offer to sell the development rights to the commissioner, and must file the notice in the land records of the town where the farm is situated. The commissioner evaluates the land offered according to the established criteria. Nonprofit ownership of land may not negatively affect the value of the development rights. The bill also specifies that the presence of pollutants and chemicals in the soil may not affect the agricultural value of the land.

If the offered land interests the commissioner, he must then seek one or more appraisals of the land to determine the value of the development rights. The commissioner must also consider all appraisals submitted by the owner and performed in an approved manner, and notify the Department of Transportation, the Department of Economic and Community Development, DEP, and OPM of the appraisals. These appraisals must consider sales of comparable lands, the use of which was unrestricted at the time of the sales, to determine the "highest and best" use of the lands offered. The value of the development rights is the difference between the value of the land for its "highest and best use" and its value for agricultural purposes, as determined by the commissioner, although the commissioner may seek to purchase the development rights for less than the determined value.

When he acquires the development rights, the commissioner must file a notice of acquisition in the appropriate land records and in the

office of the Secretary of the State. The development rights are considered dedicated to the state in perpetuity. The notice must describe the land to notify any prospective buyer or creditor. Under the bill, the owner of the land may not exercise development rights once the commissioner files the notice. This is an agricultural restriction on land.

If land with agricultural restrictions is sold, the owner must notify the commissioner in writing within 90 days of the proposed transfer of the title. The owner must submit the potential buyer's plan for the use of the land and the purchase and sale agreement to the commissioner. The commissioner must approve (1) the transfer (approval is contingent on the potential buyer's intention to use the land for farming purposes), and (2) the potential buyer. The bill does not establish a deadline for the commissioner to submit approval of the sale, unless he indicates intent to purchase the land.

The commissioner may return written notice of the state's intent to purchase the land to the owner within 45 days of receipt of the owner's sale notice. The commissioner may purchase or assign the land if he determines that either the proposed purchase price or the potential buyer's plan does not ensure the sustainability of farming on that land. If the commissioner does not purchase the land within 60 days of his notice of intent to do so, he waives his right to purchase the land and his approval of the sale is tacit. Under the bill, these provisions do not apply to a transfer of land between family members or qualified farmers. Regulations adopted by the commissioner identify qualified farmers.

The commissioner cannot remove the agricultural restriction on land once development rights are purchased by the state unless he, in consultation with the DEP commissioner and any appointed advisory groups, approves a petition by (1) the owner of the land and approved by the town or (2) the town itself and approved by the owner. The petition contains materials for the commissioner's consideration. The commissioner must hold at least one public hearing on the petition,

and may only approve it if he feels that the release of agricultural restrictions on the land is in the public interest.

If the commissioner approves a petition, the town must hold a referendum on the removal of agricultural restrictions. If the referendum passes, the restriction on the development of the land is removed once the certified results of the referendum are filed in the land records and with the office of the Secretary of State. The petitioner must bear any costs associated with this procedure, and must pay the value of the development rights to the commissioner.

### **LOCALLY SIGNIFICANT FARMLAND PRESERVATION PROGRAM**

The bill requires the commissioner to create a matching-funds grant program for municipalities and land trusts in partnership with one or more municipalities (eligible applicants) to preserve locally significant farmland. The farm must be at least 10 acres, and 20% or more must be cropland or agricultural soils classified as prime, important, or locally important by the United States Department of Agriculture. It also requires the commissioner to adopt necessary regulations.

The agriculture commissioner, in consultation with the Farmland Preservation Advisory Board, must establish the program's criteria. The criteria must consider:

1. the economic contribution of the land to local agricultural production;
2. the capacity of the land to produce food, forest, forage or feed crops;
3. environmental benefits;
4. cultural or historical significance;
5. available matching funds; and
6. the probability that the land will be sold for nonagricultural purposes.

Applicants are eligible for a matching grant of up to 65% for the purchase of development rights. The bill places limits on the grant amounts according to the quantity of agricultural soil on the land, although it does not appear that the soils have to be prime, important, or locally important to count favorably towards the grant. Table 3 outlines these limits.

**Table 3: Limits to Grants Based on the Quantity of Agricultural Soil**

<i>Amount of agricultural land (in %)</i>	<i>Limit of matching grant (in \$)</i>
20-29	200,000
30-39	300,000
40-49	400,000
50 or more	500,000

Under the bill, the commissioner must prescribe application forms for the grant program. The application must include an appraisal of the land that the commissioner approves. The commissioner must act on all complete and eligible applications as soon as possible, and at least semiannually. If the commissioner rejects incomplete applications, he must notify the applicant promptly and the applicant may resubmit the application within 15 days of the notification. The bill allows a single project to receive a grant in more than one cycle, provided there are available funds and within the limits outlined in Table 3. Municipalities are also eligible for a no-interest loan under current law in addition to the grant.

The bill allows the commissioner to use up to 2% of the grant funds for administrative expenses, including (1) the hiring of contractors to assist the commissioner in the review and evaluation of grant proposals and baseline data collection for conservation easements, (2) appraisals of land or the review of appraisals submitted, and (3) the preparation of legal or other documents. The bill bars use of any grant funds for the salary of employees in DOAG.

**BACKGROUND*****Farmland Preservation Grant Program***

The program authorizes DOAG to purchase the development rights of existing farms. When the state makes this purchase, it gets a permanent easement that prohibits nonagricultural development of the land, while allowing the owner to operate and manage the farm business.

The following is a summary of how the program works:

1. The landowner may voluntarily apply to the program.
2. A landowner files a notice of application with the town clerk in the town where the farm is located.
3. DOAG evaluates the application according to criteria in state regulations (CGS § 8-26gg). If the farm meets minimum scoring criteria, the commissioner may accept the application.
4. DOAG and the landowner negotiate and agree on the application configuration and easement specifics.
5. An appraiser appraises the farm for its unrestricted market value and its agricultural value. The difference between the two is the value of development rights.
6. DOAG reviews the appraisals with the landowner and the commissioner may negotiate anything from a gift to the full value of the development rights.
7. DOAG gives the landowner a letter from the commissioner representing the agreed-upon price. Under this bill, the agreed upon price must be under the maximum state contribution. The attorney general reviews and approves the letter.
8. DOAG submits a detailed report to the State Properties Review Board for review and approval.

9. DOAG requests funds to acquire the development rights including funds for an A-2 survey, title insurance, and title search, from the State Bond Commission.
10. Once the commission, or the steering committee, approves, the state obtains an A-2 survey and title search of the property. Upon completion, the conveyance of development rights deed is executed and a check for the development rights acquisition processed.

### ***Farmland Preservation Advisory Board***

PA 07-162 created a 12-member board to help DOAG with its purchase of development rights program and other efforts to preserve agricultural lands. The board is within DOAG for administrative purposes only. The board must provide comments and recommendations on the purchase of development rights. The board may also submit recommendations on preservation programs for legislative action.

### ***Legislative History***

The House referred the bill (File 472) to the Finance, Revenue, and Bonding Committee, which reported a substitute that eliminates the \$1 billion bond authorization for the Face of Connecticut account.

### **COMMITTEE ACTION**

#### Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/14/2008)

#### Government Administration and Elections Committee

Joint Favorable

Yea 12 Nay 0 (04/14/2008)

#### Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea    47    Nay   0    (04/24/2008)